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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Sperry et al.

Group Art Unit: 3721

Serial No.: 09/760,189

Examiner: Thanh Truong

Filing Date: January 12, 2001

Docket No.: D-20086-01

Title: **FLUID DISPENSER HAVING IMPROVED CLEANING SOLVENT
DELIVERY SYSTEM**

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REPLY BRIEF UNDER 37 CFR § 41.41

Sir:

This Reply Brief is being filed in triplicate in response to the
Examiner's Answer mailed January 4, 2005. Appellant wishes to
respond to two new arguments that were presented for the first time in
the Examiner's Answer.

I. New Argument No. 1

At page 7 of the Examiner's Answer,

the examiner construes that the "interior surface of said discharge port," as recited in claims 1 and 10, includes the entire surface from above the outlet ports 234 and 236 down to the discharge port 153 (see figure 28). The appellant's claims 1 and 10 do not specify any limitations as far as the length of the interior surface within the vicinity of the outlet port, and for [sic] the appellant's argument that the Sperry '848 apparatus is far less effective is irrelevant, because it does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

In response, Appellants concede that claims 1 and 10 "do not specify any limitations as far as the length of the interior surface within the vicinity of the outlet port," as the Examiner contends. However, this is irrelevant. The language of claims 1 and 10 clearly differentiate the "discharge port" and "internal chamber" of the housing as separate structural elements. The discharge port provides a port "through which fluid product may exit said housing." In contrast, the internal chamber is in fluid communication with an inlet in order to receive "a fluid product into said housing." Claims 1 and 10 then go on to describe how the discharge port and internal chamber co-operate when the dispenser is in the "open position," whereby "fluid product may flow through said internal chamber and exit said housing via said discharge port." This is perhaps best illustrated in FIG. 19, which shows fluid product flowing through internal chamber 56 and exiting the housing at discharge port 66. In addition, FIG. 5 shows the "interior surface" 59, against which cleaning solvent is directed in a radially outward manner from the valving rod, as also specified in claims 1 and 10 (this is shown in FIGS. 20 and 21). The

interior surface 59 of the discharge port is distinct from the interior surface 57 of the internal chamber (FIG. 21).

Accordingly, claims 1 and 10 clearly describe the discharge port and internal chamber as separate and distinct elements, both structurally and functionally. No additional recitation of “the length of the interior surface within the vicinity of the outlet port,” as suggested by the Examiner, is needed to make this distinction any clearer. Thus, to adopt the claim construction suggested by the Examiner, i.e., to construe the “interior surface of said discharge port” as encompassing the entire surface of the internal chamber, would be erroneous, as this would ignore the explicit language of claims 1 and 10. MPEP 2143.03 requires that all claim limitations be considered. The Examiner’s attempt to ignore the distinction between the “discharge port” and “internal chamber” limitations, based on a missing but unnecessary “length” limitation, is clearly improper.

Claims 1 and 10 plainly specify that the valving rod directs cleaning solvent “radially outwards from said bore and against said interior surface of said discharge port ... to facilitate the removal of at least a portion of any fluid product or derivatives thereof that may be in adherence with said interior surface of said discharge port.” In direct contrast, Sperry ‘848 teaches that solvent is directed out of ports 234, 236 against the internal chamber, i.e., well above the discharge port 153. As noted in Appellants’ Appeal Brief, this is far different, and far less effective, than precisely directing the solvent radially outwards and directly against the surface where the solvent has been found to be needed most, i.e., against the interior surface of the discharge port, as recited in claims 1 and 10.

The Examiner’s proposed claim construction is also erroneous when read on the Sperry ‘848 fluid dispenser. The “entire surface from above

the outlet ports 234 and 236 down to the discharge port 153 (see figure 28)” includes that part of the internal chamber that is disposed above chemical internal passageways 176 and 178. However, it is through passageways 176, 178 that the precursor chemicals A and B enter the dispenser, whereupon they mix together and flow downwards and out of the dispenser. Seals 181 and 183 prevent leakage of the precursor material above the chemical passageways 176, 178 (col. 33, lines 59-63). Accordingly, the interior surface above the chemical passageways 176, 178 cannot be considered to be part of any “discharge port” for the precursor chemicals. Outlet ports 234 and 236 are positioned above the chemical internal passageways 176 and 178 when the Sperry ‘848 dispenser is in the non-dispensing mode as shown in FIG. 28. Solvent flows out of the outlet ports 234, 236 only when ports 234 and 236 are positioned above passageways 176 and 178. Therefore, such solvent flow cannot be deemed to be directed against the interior surface of the discharge port, i.e., the opening from which the mixed precursor chemicals are discharged from the dispenser, because such discharge port is positioned below passageways 176, 178.

Accordingly, the construction of claims 1 and 10 as proposed by the Examiner should not be adopted. Instead, “discharge port” should be construed according to the drawings and plain language of such phrase as “an opening from which fluid product is discharged from the housing,” and viewed as distinct from the “internal chamber” of the claimed dispenser. Such a construction is mandated by the express language of the claims.

I. New Argument No. 2

Regarding claim 20, the Examiner refers to internal reservoirs 312, 230, 200, and 240, and contends that Sperry ‘848 discloses “the external

conduits of those internal reservoir including 256, and the conduits that connecting ports 234 and 236 to those internal reservoirs.”

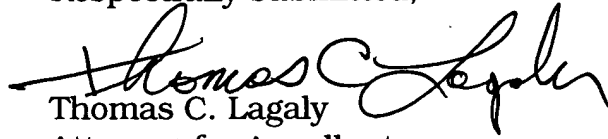
In response, Appellants point out that none of the conduits disclosed in Sperry ‘848 “provid[e] fluid communication between said internal reservoir and said discharge port.” The only specific conduit to which the Examiner refers is conduit 256. However, conduit 256 only provides fluid communication between solvent supply area 312 and non-interference fit area 318. No part of conduit 256 provides fluid communication between solvent supply area 312 and discharge port 153. Solvent from area 312 is thus delivered internally within the dispenser to discharge port 153.

In contrast, by providing fluid communication between and internal reservoir and the discharge port in accordance with claim 20, fresh solvent can be delivered directly to the discharge port. This is not possible with the Sperry ‘848 dispenser, wherein the solvent must first flow through and make contact with internal fluid product areas, thereby presenting contaminated solvent to the discharge port, i.e., solvent with fluid product dissolved therein.

Accordingly, claim 20 is patentable over the combination of Sperry ‘847 and Sperry ‘848 because Sperry ‘848 does not teach or suggest an external conduit that provides fluid communication between an internal reservoir and the discharge port as claimed.

For the reasons stated above as well as those set forth in the Appeal Brief dated November 9, 2004, Appellants respectfully request that the rejections be reversed and that all of the claims on appeal be allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas C. Lagaly". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

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